



VIA ECF

Honorable Judge Nicholas G. Garaufis
United States District Court
Eastern District of New York
225 Cadman Plz E.
Brooklyn, New York 11201

RE: Carlton Roman v. The City of New York
Case Number: 22-cv-6681(NGG) (CLP)

Your Honor:

I represent Plaintiff-Carlton Roman in the above referenced matter. I write to oppose Defendants' request for an extension to file their reply to Plaintiff's opposition to Defendants' motion to dismiss.

By way of background, at a conference before Your Honor on March 1, 2023, Defendants requested to file their reply on July 10th, given that Defendants' counsel would be on vacation the first week of July, which Your Honor granted.

After engaging in conduct that Judge Cheryl Pollak has recently stated "smacks of delay", Defendants requested a one-week extension to file their motion to dismiss, which was granted by Your Honor. Given Defendants' extension, Plaintiff was granted a one-week extension to file his opposition, which was filed on July 3, 2023.

Plaintiff strenuously objects to Defendants' request. To begin, Defendants' counsel was well aware that she had vacation scheduled for the first week of July, which she expressly raised at the aforementioned conference before Your Honor on March 1st and *ad nauseum* in emails to Plaintiff. Nevertheless, because Defendants' time was consumed by the aforementioned conduct, such as filing a Fed. R. Civ. P. 72 motion and raising arguments that were repeatedly rejected by both Your Honor and Judge Pollak, Defendants requested a week extension to file their motion to dismiss (which Defendants' counsel clearly knew would affect her vacation schedule).

The most recent delay tactic is a motion for reconsideration that was filed yesterday, by counsel for a non-party to this litigation (but a subsidiary of Defendant-City), attempting to raise arguments that have been repeatedly denied and evade clear court orders. Indeed, in a recent decision, Judge Pollak indicated that it would be the final time that she reiterated that certain discovery and depositions have been ordered to proceed. Defendants' delay tactics cannot be reasonably disputed. It is evident that Defendants are employing tactics to avoid District Attorney Katz's deposition from moving forward as well as avoiding producing documents such as the CIU report. In fact, during a conference held on July 6, 2023, before Judge Pollak, Defendants' counsel's supervisor admitted that "these depositions cannot go forward before the settlement conference," ***despite clear and repeatedly reiterated court orders mandating that they proceed.***

It is also evident that Defendants' counsel is utilizing the most recent delay tactic as a basis to make frivolous arguments to Your Honor. Indeed, less than an hour before Defendants' counsel filed the instant request for an extension, Defendants filed a letter to Judge Pollak requesting "clarification" regarding whether they should proceed with the production of documents (that Judge Pollak stated in a recent decision for the "final time" they were ordered to be produced). Clearly, this indicates Defendants have paused their efforts to produce the very documents they claim are the reason they cannot meet the deadline that they requested. Thus, the "vast number of documents" Defendants referred to in the instant request should no longer be an impediment to abiding by Your Honor's deadline.

Additionally, counsel's claim that her time has been consumed by preparing for a July 18th settlement conference (that was requested by Defendants) is equally an improper basis for her request for an extension. At the March 1st conference, Your Honor inquired why Defendants have not settled this matter and Defendants' counsel responded that they had not explored settlement yet because "at this stage" Defendants were "seeking to narrow down the claims in the case". Yet, at a conference on June 26th, after reiterated and repeated rulings that certain depositions and documents were ordered to be produced, including the deposition of District Attorney Katz and production of the CIU report, Defendants requested a July 18th settlement conference.

In sum, Plaintiff respectfully submits that a reading of the docket makes clear that Defendants' time has been consumed by their own repetition of repeatedly denied court orders and decision to focus on arguments that they have failed to succeed on. As such, Plaintiff opposes their request for an extension. Plaintiff thanks the court for its time and consideration.

Dated: July 11, 2023

Sincerely,



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CC: Seema Kassab, Esq.
Attorney for Defendants